

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

RAMON HERNANDO LOPEZ,	:	
Plaintiff	:	CIVIL ACTION NO. 3:18-92
v.	:	JUDGE MANNION
NANCY A. BERRYHILL,	:	
Defendant	:	

ORDER

Pending before the court is the report of Chief Magistrate Judge Susan E. Schwab which recommends that the plaintiff's appeal of the decision of the Commissioner of Social Security be denied and the Commissioner's final decision denying the plaintiff's claim for benefits be affirmed. (Doc. 11). The plaintiff has filed objections to the report. (Doc. 12). The Commissioner has filed a response to the plaintiff's objections. (Doc. 13). Upon review of the record in this matter, the plaintiff's objections will be **OVERRULED**, the report and recommendation of Judge Schwab will be **ADOPTED IN ITS ENTIRETY** and the Clerk of Court will be directed to **CLOSE THIS CASE**.

When objections are timely filed to the report and recommendation of a magistrate judge, the district court must review *de novo* those portions of the report to which objections are made. 28 U.S.C. §636(b)(1); Brown v. Astrue, 649 F.3d 193, 195 (3d Cir. 2011). Although the standard is *de novo*, the extent of review is committed to the sound discretion of the district judge, and the court may rely on the recommendations of the magistrate judge to the

extent it deems proper. Rieder v. Apfel, 115 F.Supp.2d 496, 499 (M.D.Pa. 2000) (citing United States v. Raddatz, 447 U.S. 667, 676 (1980)).

For those sections of the report and recommendation to which no objection is made, the court should, as a matter of good practice, “satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Fed. R. Civ. P. 72(b), advisory committee notes; see also Univac Dental Co. v. Dentsply Intern., Inc., 702 F.Supp.2d 465, 469 (M.D.Pa. 2010) (citing Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987) (explaining judges should give some review to every report and recommendation)). Nevertheless, whether timely objections are made or not, the district court may accept, not accept, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. 28 U.S.C. §636(b)(1); Local Rule 72.31.

The plaintiff filed an application for Supplemental Security Income (“SSI”) under Title XVI of the Social Security Act claiming disability based upon certain mental impairments. The plaintiff’s claim was denied upon initial administrative review and, as a result, the plaintiff requested a hearing before an administrative law judge (“ALJ”). A hearing was conducted at which the plaintiff was represented by counsel.

In considering the evidence of record, the ALJ determined that the plaintiff had not been disabled within the meaning of the Act since the date of

his application and he therefore denied the plaintiff's application for benefits. The plaintiff appealed the ALJ's decision to the Appeals Council which denied his request for review making the ALJ's decision the final decision of the Commissioner.

The plaintiff filed the instant action on January 12, 2018, arguing that he does not have the residual functional capacity ("RFC") to perform a full range of work at any exertional level for the durational requirement, the ALJ failed to give controlling weight to his treating source opinion and proper weight to the other medical opinions of record, and the side effects of his medication, singularly or when combined with his other conditions, preclude him from engaging in substantial gainful activity. After setting forth the standard pursuant to which this court is obligated to consider the plaintiff's claims, Judge Schwab addressed each of the plaintiff's arguments and determined that the decision of the ALJ is supported by substantial evidence. As such, Judge Schwab recommended that the plaintiff's appeal be denied and the Commissioner's decision be affirmed.

The plaintiff filed objections to Judge Schwab's report. Upon review, the plaintiff raises the same arguments previously raised in the brief and reply brief in support of his appeal. The court finds that Judge Schwab has adequately addressed each of the plaintiff's arguments in her report. Because the plaintiff's arguments have previously been raised and addressed by Judge

Schwab and the court agrees with the sound reasoning that led Judge Schwab to her conclusions, the court will overrule the plaintiff's objections and adopt Judge Schwab's report in its entirety as the reasoning of the court.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

- (1) The plaintiff's objections (**Doc. 12**) are **OVERRULED**.
- (2) The report and recommendation of Judge Schwab (**Doc. 11**), is **ADOPTED IN ITS ENTIRETY AS THE RULING OF THE COURT**.
- (3) The plaintiff's appeal is **DENIED** and the decision of the Commissioner is **AFFIRMED**.
- (4) The Clerk of Court is directed to **CLOSE THIS CASE**.

s/ *Malachy E. Mannion*
MALACHY E. MANNION
United States District Judge

Date: July 12, 2019

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